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**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

WAYAN GARVEY, *on behalf of himself and
all others similarly situated.*

Civil Case No.: 2:23-cv-00920-APG-DJA

Plaintiff,
v

KELLER WILLIAMS REALTY, INC. AND
BRITNEY GAITAN

Defendants

**STIPULATION AND ORDER TO
EXTEND DEADLINES**

1 Pursuant to Fed. R. Civ. P. 26, LR IA 6-1 and LR 26-3, Plaintiff Wayan Garvey (“Mr.
 2 Garvey” or “Plaintiff”) and Defendant Britney Gaitan (“Gaitan”) by and through their respective
 3 counsel of record, respectfully submit the following renewed stipulation to extend the remaining
 4 deadlines in the case by two (2) months, as shown in the chart set forth below.

Event	Current Deadline	Proposed Deadline
Class Certification Expert Disclosures	February 3, 2025	April 3, 2025
Class Certification Rebuttal-Expert Disclosures	March 3, 2025	May 2, 2025
Class Certification Motion	March 17, 2025	May 19, 2025
Liability Expert Report Disclosure	July 14, 2025	September 14, 2025
Liability Expert Rebuttal Report Disclosure	August 11, 2025	October 13, 2025
Discovery cutoff	September 15, 2025	November 17, 2025
Dispositive motions	October 13, 2025	December 15, 2025
Pretrial Order	November 10, 2025	January 12, 2026

15 **I. DISCOVERY COMPLETED¹**

16 1. Plaintiff served his Requests for Production and First Set of Interrogatories on
 17 Defendant Gaitan on May 14, 2024.

18 2. Defendant Gaitan responded to Plaintiff’s Requests for Production and First Set of
 19 Interrogatories on June 28, 2024.

20 3. Defendant Gaitan served her Initial Disclosures on June 28, 2024.

21 4. Plaintiff served his initial disclosures on July 9, 2024.

22 5. Defendant Gaitan served her First Supplemental Disclosure on October 16, 2024.

23 6. On July 26, 2024, the parties filed a Request for Order to Enter Stipulated Protective
 24 Order. [ECF No. 60].

25 7. On July 30, 2024, the Court granted in part and denied in part the parties Stipulated
 26 Protective Order. [ECF No. 63].

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 28 ¹ On November 1, 2024, Plaintiff dismissed Keller Williams Realty, Inc. (“KWRI”) from this action
 without prejudice. Plaintiff omits, from this recitation, the jurisdictional discovery conducted with respect to KWRI.

1 8. On October 16, 2024, Plaintiff took the deposition of Defendant Gaitan.

2 9. Following Defendant Gaitan's deposition, Mr. Garvey issued subpoenas *duces*
3 *tecum* to (i) HighLevel, Inc. (the software platform that Ms. Gaitan used to send the messages at
4 issue); (ii) Kai Data, LLC (a lead vendor used by Ms. Gaitan); (iii) RedX, LLC (a lead vendor used
5 by Ms. Gaitan); and (iv) Twilio, Inc. (a telecommunications provider that facilitated the sending
6 of the text messages via HighLevel Inc. and that is in possession of calling and text message detail
7 records).

8 10. RedX, LLC responded and objected to the subpoena on November 6, 2024.

9 11. Kai Data, LLC produced certain documents in response to the subpoena on
10 November 18, 2024.

11 12. Twilio responded and objected to the subpoena on November 8, 2024. In its
12 response, Twilio advised that it maintains records of the calls and text messages relevant to this
13 case, but refuses to produce them. Twilio advised that "Ms. Gaitan . . . has full access to produce
14 data from all such accounts that she controlled"

15 13. HighLevel, Inc. responded to the subpoena on November 18, 2024. In its response,
16 HighLevel indicated that it did not have access to the call and text message logs because its
17 "integration" with the phone number was "severed" and that the "[c]all or text records associated
18 with this phone number must be retrieved from Twilio, Inc."

19 14. Defendant then engaged with Twilio, Inc. in an attempt to obtain and produce the
20 relevant calling and texting records.

21 15. On January 7, 2025, Defendant produced calling and texting records that Defendant
22 was able to obtain from her Twilio account..

23 16. Plaintiff reviewed the records immediately and determined that they were limited
24 and did not include the records of calls and text messages to Plaintiff.

25 17. Plaintiff contacted Defendant's counsel and the parties met and conferred on
26 January 8, 2025. Defendant's counsel explained the report generating limitations of HighLevel
27 experienced by Defendant and agreed to participate in a conference with HighLevel to resolve any
28

1 technical difficulties in obtaining the requested information. The parties thereafter scheduled a
2 call with HighLevel, which occurred on January 13, 2025.

3 18. During the January 13, 2025 call with HighLevel, counsel for HighLevel confirmed
4 the report generating limitations for the HighLevel user and directed the parties to Twilio to obtain
5 the requested information.

6 19. The parties thereafter scheduled a joint call with Twilio and HighLevel, which
7 occurred on January 29, 2025.

8 20. Defendant's counsel was unable to attend the telephone conference due to her
9 involvement in a jury trial.

10 21. During the January 29, 2025 call with Twilio and HighLevel it became clear that
11 Ms. Gaitan had multiple accounts with Twilio and that certain accounts were in the name of High
12 Level – and were not accessible by Ms. Gaitan directly. The records Ms. Gaitan obtained
13 previously from Twilio were limited only to accounts in her name, not in the name of her vendor
14 that she used to send the messages. Twilio requested that HighLevel submit a support ticket for
15 the records associated with the accounts connected to both HighLevel and Ms. Gaitan. Plaintiff
16 believes that these accounts will include the calls and text messages to Plaintiff and other class
17 members. HighLevel's representatives submitted the ticket while the parties were on the call.
18 Twilio represented that it would assist HighLevel and Ms. Gaitan with extracting the relevant
19 information and providing that as soon as possible. Twilio advised that it could take approximately
20 thirty (30) days to provide that information.

21 22. Plaintiff has not received complete calling and texting data that is relevant to this
22 case and that Plaintiff needs to review and analyze prior to engaging an appropriate expert and
23 preparing an expert report.

24 **II. DISCOVERY REMAINING TO BE COMPLETED**

25 23. Plaintiff still needs to obtain the pertinent class discovery (i.e., calling and texting
26 logs) from Ms. Gaitan and, as explained in more detail below, is in the process of doing so. In
27 addition, the parties still need to make their expert disclosures, including Plaintiff's and Defendant
28 Gaitan's expert disclosures and rebuttal disclosures as well as the depositions of those experts.

1 Mr. Garvey is unable to make these disclosures until he has had an opportunity to review class
 2 discovery and data produced from the calling and texting systems with his experts.

3 **III. REASON WHY MORE TIME IS NEEDED FOR DISCOVERY**

4 24. This is the second requested extension of discovery.

5 25. Mr. Garvey seeks call and text message detail records with respect to the calls and
 6 text messages made to the putative classes. A review of this information, by both Plaintiff and
 7 Plaintiff's expert(s) is important to Plaintiff's class certification motion. This information will also
 8 inform Plaintiff as to what experts Plaintiff believes are necessary for class certification and
 9 liability. Plaintiff has not yet been able to obtain these necessary documents and information.

10 26. As explained above, Defendant is working to obtain the records and produced
 11 certain incomplete records. Defendant's third party vendors have agreed to cooperate and produce
 12 the remaining records. This production should take place in approximately thirty (30) days.

13 27. The above records are integral to Mr. Garvey's ability to determine what experts,
 14 if any, are required for Mr. Garvey's forthcoming class certification motion. Without these records
 15 and documents, Mr. Garvey is unable to determine what experts he needs to engage and he is not
 16 able to have an expert report prepared by the current deadline, nor is he able to prepare a class
 17 certification motion.

18 28. This data is critical to the parties' respective case preparation; and therefore,
 19 additional time is needed for the parties to obtain this information and engage experts.

20 29. Mr. Garvey contacted Defendant Gaitan with respect to this request and Defendant
 21 Gaitan indicated she is unopposed.

22 **IV. CURRENT DEADLINES AND PROPOSED DEADLINES**

24 Event	25 Current Deadline	26 Proposed Deadline
25 Class Certification Expert Disclosures	26 February 3, 2025	27 April 3, 2025
26 Class Certification Rebuttal-Expert Disclosures	27 March 3, 2025	28 May 2, 2025
27 Class Certification Motion	28 March 17, 2025	29 May 19, 2025

1	Liability Expert Report Disclosure	July 14, 2025	September 14, 2025
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7 Accordingly, the parties request that the dates be extended by two (2) months. This will
 8 provide approximately 30 days for Defendant to complete her production and another 30 days for
 9 Plaintiff to review the information, engage and expert and have a report prepared.

10 Dated: February 3, 2025

Respectfully submitted,

11 /s/ Craig K. Perry

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/s/ Melissa A. Saragosa-Stratton

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11 ORDER
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14 IT IS SO ORDERED.
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16 UNITED STATES MAGISTRATE JUDGE

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18 DATED: 2/4/2025 _____
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CERTIFICATE OF SERVICE

I certify that on the date below I electronically filed the foregoing document and that it is available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

BY: /s/ Tyrin Kanemeier
Employee of Craig K. Perry & Associates